

AMENDED IN ASSEMBLY JANUARY 4, 2010

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

## ASSEMBLY BILL

**No. 841**

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**Introduced by Assembly Member Fuentes**

February 26, 2009

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~~An act to add Section 50199.25 to the Health and Safety Code, relating to taxation. An act to amend Section 98 of the Labor Code, relating to employment.~~

### LEGISLATIVE COUNSEL'S DIGEST

AB 841, as amended, Fuentes. ~~Low-income housing tax credits: City of Los Angeles Wages: employee complaints.~~

*Existing law authorizes the Labor Commissioner to investigate employee complaints and to provide a hearing in any action to recover wages, penalties, and other demands for compensation.*

*This bill would provide that, if the Labor Commissioner finds that a payroll record submitted in support of or opposition to a complaint was intentionally falsified, the person who submitted the payroll record shall be subject to a civil penalty.*

~~Existing law requires the California Tax Credit Allocation Committee to allocate specified insurance, income, and corporation tax credits for purposes of low-income housing projects.~~

~~This bill would require the committee to allocate a portion of the credits to the City of Los Angeles, as provided.~~

~~This bill would state the findings and declarations of the Legislature concerning the need for special legislation.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: ~~yes~~no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 98 of the Labor Code is amended to read:*

2     98. (a) ~~The Labor Commissioner shall have the authority is~~  
3     *authorized* to investigate employee complaints. The Labor  
4     Commissioner may provide for a hearing in any action to recover  
5     wages, penalties, and other demands for compensation properly  
6     before the division or the Labor Commissioner, including orders  
7     of the Industrial Welfare Commission, and shall determine all  
8     matters arising under his or her jurisdiction. ~~It shall be within the~~  
9     ~~jurisdiction of the~~ *The Labor Commissioner to* may accept and  
10    determine claims from holders of payroll checks or payroll drafts  
11    returned unpaid because of insufficient funds, if, after a diligent  
12    search, the holder is unable to return the dishonored check or draft  
13    to the payee and recover the sums paid out. Within 30 days of the  
14    filing of the complaint, the Labor Commissioner shall notify the  
15    parties as to whether a hearing will be held, whether action will  
16    be taken in accordance with Section 98.3, or whether no further  
17    action will be taken on the complaint. If the determination is made  
18    by the Labor Commissioner to hold a hearing, the hearing shall  
19    be held within 90 days of the date of that determination. However,  
20    the Labor Commissioner may postpone or grant additional time  
21    before setting a hearing if the Labor Commissioner finds that it  
22    would lead to an equitable and just resolution of the dispute.

23    It is the intent of the Legislature that hearings held pursuant to  
24    this section be conducted in an informal setting preserving the  
25    right of the parties.

26    (b) When a hearing is set, a copy of the complaint, which shall  
27    include the amount of compensation requested, together with a  
28    notice of time and place of the hearing, shall be served on all

1 parties, personally or by certified mail, or in the manner specified  
2 in Section 415.20 of the Code of Civil Procedure.

3 (c) Within 10 days after service of the notice and the complaint,  
4 a defendant may file an answer with the Labor Commissioner in  
5 any form as *prescribed by* the Labor Commissioner ~~may prescribe~~,  
6 setting forth the particulars in which the complaint is inaccurate  
7 or incomplete and the facts upon which the defendant intends to  
8 rely.

9 (d) No pleading other than the complaint and answer of the  
10 defendant or defendants shall be required. Both shall be in writing  
11 and shall conform to the form and the rules of practice and  
12 procedure adopted by the Labor Commissioner.

13 (e) Evidence on matters not pleaded in the answer shall be  
14 allowed only on terms and conditions *imposed by* the Labor  
15 Commissioner ~~shall impose~~. In all these cases, the claimant shall  
16 be entitled to a continuance for purposes of review of the new  
17 evidence.

18 (f) If the defendant fails to appear or answer within the time  
19 allowed under this chapter, no default shall be taken against him  
20 or her, but the Labor Commissioner shall hear the evidence offered  
21 and shall issue an order, decision, or award in accordance with the  
22 evidence. A defendant failing to appear or answer, or subsequently  
23 contending to be aggrieved in any manner by want of notice of the  
24 pendency of the proceedings, may apply to the Labor  
25 Commissioner for relief in accordance with Section 473 of the  
26 Code of Civil Procedure. The Labor Commissioner may afford  
27 this relief. No right to relief, including the claim that the findings  
28 or award of the Labor Commissioner or judgment entered thereon  
29 ~~are~~ *is* void upon ~~their~~ *its* face, shall accrue to the defendant in any  
30 court unless prior application is made to the Labor Commissioner  
31 in accordance with this chapter.

32 (g) All hearings conducted pursuant to this chapter are governed  
33 by the division and by the rules of practice and procedure adopted  
34 by the Labor Commissioner.

35 (h) (1) Whenever a claim is filed under this chapter against a  
36 person operating or doing business under a fictitious business  
37 name, as defined in Section 17900 of the Business and Professions  
38 Code, which relates to the person's business, the division shall  
39 inquire at the time of the hearing whether the name of the person  
40 is the legal name under which the business or person has been

1 licensed, registered, incorporated, or otherwise authorized to do  
2 business.

3 (2) The division may amend an order, decision, or award to  
4 conform to the legal name of the business or the person who is the  
5 defendant to a wage claim, if it can be shown that proper service  
6 was made on the defendant or his or her agent, unless a judgment  
7 had been entered on the order, decision, or award pursuant to  
8 subdivision (d) of Section 98.2. The Labor Commissioner may  
9 apply to the clerk of the superior court to amend a judgment that  
10 has been issued pursuant to a final order, decision, or award to  
11 conform to the legal name of the defendant, if it can be shown that  
12 proper service was made on the defendant or his or her agent.

13 (i) *If the Labor Commissioner determines that a payroll record*  
14 *submitted in support of or opposition to a claim or complaint*  
15 *brought pursuant to this section has been intentionally falsified,*  
16 *the person submitting the payroll record shall be subject to a civil*  
17 *penalty of one thousand dollars (\$1,000) for each intentionally*  
18 *falsified payroll record submitted.*

19 ~~SECTION 1. Section 50199.25 is added to the Health and~~  
20 ~~Safety Code, to read:~~

21 ~~50199.25. Notwithstanding any other provision in this chapter~~  
22 ~~to the contrary, the California Tax Credit Allocation Committee~~  
23 ~~shall, to the extent possible, allocate a portion of the California~~  
24 ~~low-income housing tax credit to the City of Los Angeles in~~  
25 ~~accordance with the following:~~

26 ~~(a) The Los Angeles Housing Department shall annually~~  
27 ~~establish a local qualified allocation plan for purposes of allocating~~  
28 ~~the California low-income housing tax credit within the City of~~  
29 ~~Los Angeles.~~

30 ~~(b) The local qualified allocation plan shall provide for the~~  
31 ~~allocation of the housing tax credits in accordance with the same~~  
32 ~~criteria and requirements used in allocating the credits by Section~~  
33 ~~42 of the Internal Revenue Code and by the California Tax Credit~~  
34 ~~Allocation Committee.~~

35 ~~(c) The local qualified allocation plan shall provide for annual~~  
36 ~~housing priorities and needs, and one or more annual competitive~~  
37 ~~application cycles for the tax credits.~~

38 ~~(d) The Los Angeles Housing Department shall review the~~  
39 ~~applications for completeness, feasibility, and the extent to which~~  
40 ~~the projects meet the threshold and competitive selection criteria~~

1 contained in the state's qualified allocation plan and local qualified  
2 allocation plan, issue determinations, and maintain a waitlist, if  
3 necessary. The review shall include, but not be limited to, the  
4 following:

5 (1) Evaluation of compliance with threshold criteria.

6 (2) Project and sponsor underwriting.

7 (3) Scoring applications for an award of housing tax credits  
8 based upon California Tax Credit Allocation Committee program  
9 guidelines.

10 (e) The awarding of housing tax credits to the projects shall be  
11 subject to approval by the Mayor and the Council of the City of  
12 Los Angeles, and, upon that approval, a list of those projects shall  
13 be forwarded to the California Tax Credit Allocation Committee  
14 for the actual awarding of the housing tax credits in accordance  
15 with the requirements of this chapter.

16 (f) The California Tax Credit Allocation Committee shall adopt  
17 all rules and regulations necessary to implement this section in a  
18 manner that ensures compliance with all requirements used in  
19 allocating the federal tax credit pursuant to this chapter.

20 SEC. 2. If the Commission on State Mandates determines that  
21 this act contains costs mandated by the state, reimbursement to  
22 local agencies and school districts for those costs shall be made  
23 pursuant to Part 7 (commencing with Section 17500) of Division  
24 4 of Title 2 of the Government Code.

25 SEC. 3. The Legislature finds and declares that, because of the  
26 unique circumstances applicable only to the City of Los Angeles,  
27 a statute of general applicability cannot be enacted within the  
28 meaning of subdivision (b) of Section 16 of Article IV of the  
29 California Constitution. Therefore, this special statute is necessary.